

California Integrated Waste Management Board

Board Meeting

March 15-16, 2005

AGENDA ITEM 33

ITEM

Consideration Of Updated List Of Delegations; Additional Delegations; And, Process For Streamlined Staff Consent Agenda Items

I. ISSUE/PROBLEM STATEMENT

The purpose of this item is threefold:

First, staff is seeking to update the comprehensive list of existing delegations from the Board to the Executive Director. The last time that the comprehensive list of delegations was updated was in January 1995. Since that time, a number of duties have been approved for delegation in individual agenda items. Proposed Resolution #2005-54 collects those existing delegations into one document for clarity and ease of use.

Second, at its January workshop on Internal Process and Planning, the Board discussed whether or not to include additional tasks on this list of delegations and directed staff to come back with an item proposing new delegations for Board consideration.

Finally, at that workshop, the Board also directed staff to prepare an item to establish a streamlined procedure for a staff consent agenda process for items that typically would require little or no discussion at Committee and Board meetings, but which the Board did not deem appropriate for delegation.

II. ITEM HISTORY

On December 11, 1991, the Board approved Resolution 91-92, which listed a number of delegations from the Board to the Executive Director.

On November 17, 1993, the Board approved the addition of several items to the list of delegations and these were included with the previously approved delegations in Resolution 93-133.

Subsequent to November 1993, the Board approved a number of other delegations individually.

On January 23, 1995, Chairman Jesse Huff signed a new compilation of delegations which included additional delegations that had been approved by the Board since 1993.

On January 27, 2005, the Board directed staff to prepare an item for updating and revising the list of delegations, and to establish a staff consent agenda item process.

III. OPTIONS FOR THE BOARD

1. Delegations
 - A. Approve the list of updated and new delegations in proposed Resolution 2005-54.
 - B. Modify the proposed new delegations, and then approve Resolution 2005-54.
 - C. Take no action.

2. Staff Consent Agenda Process
 - A. Approve the staff consent agenda process in proposed Resolution 2005-55.
 - B. Modify, and then approve the staff consent agenda process in proposed Resolution 2005-55.
 - C. Take no action.

IV. STAFF RECOMMENDATION

Staff recommends that the Board choose options 1.A. and 2.A.: approve proposed Resolutions 2005-54 and 2005-55.

V. ANALYSIS

A. Key Issues and Findings

The purpose of this item is threefold:

First, staff is seeking to update the comprehensive list of existing delegations from the Board to the Executive Director. The last time that the comprehensive list of delegations was updated was in January 1995. Since that time, a number of duties have been approved for delegation in individual agenda items. Proposed Resolution #2005-54 collects those existing delegations into one document for clarity and ease of use.

Second, at its January workshop on Internal Process and Planning, the Board discussed whether or not to include additional tasks on this list of delegations and directed staff to come back with an item proposing new delegations for Board consideration.

Finally, at that workshop, the Board also directed staff to prepare an item to establish a streamlined procedure for a staff consent agenda process for items that typically would require little or no discussion at Committee and Board meetings, but which the Board did not deem appropriate for delegation.

Background

Authority for Delegation

Public Resources Code Section 40430 provides in part, that:

"The board may delegate any power, duty, purpose, function, and jurisdiction to the executive director which the board determines to be appropriate... The executive director may redelegate any of the powers, duties, purposes, functions, and jurisdiction which are delegated to him or her by the board to his or her subordinates."

Purpose of Delegation

In general, the purpose of delegating is to allow the Board to focus its attention and energy on the duties that it considers to be most significant by allowing minor and routine agreements and documents to be reviewed, approved and/or executed by staff. As noted in the most recent compilation of delegations (attachment 1):

"...in order to carry out the responsibilities, commitment and administration of the Board, numerous minor and routine agreements and documents must be executed for and on behalf of the Board... the time for presentation to, and action by, the Board for each and every such matter is extensive for both the Board and staff, and often delays the Board's receipt of essential goods and services..."

Thus, the delegation provides that its purpose is to:

“...authorize the Executive Director, on behalf of the Board, to render certain decisions and execute certain documents which are **administrative** in nature and which involve matters which are **not contested, controversial or have significant impact** on integrated waste management policy, or are necessary for the preservation of the public health and safety or the environment...” (emphasis added)

The delegation also notes later that one of the purposes of the delegation is “in order to achieve efficiency of operations.”

In practice, the delegation has been used both for the smooth day-to-day operation of the Board’s activities and for less frequent items that are administrative in nature which do not involve policy decisions. For example, the delegation is relied upon by the Department of General Services as it authorizes the Board to make purchases of office supplies and execute mandatory services contracts. Likewise, the delegation authorizes the Executive Director to complete all of the paperwork necessary to submit rulemaking files to the Office of Administrative Law, once the Board has approved a regulatory package.

It is important to keep in mind that even if a particular task is contained on the list of delegations, if there are circumstances regarding it which would make it controversial, contested, or otherwise significant, that task would not fit within the delegation and would still come before the Board.

Previous Board Delegations

On December 11, 1991, the Board approved Resolution 91-92, which listed a number of delegations from the Board to the Executive Director.

On November 17, 1993, the Board approved the addition of several items to the list of delegations and these were included with the previously approved delegations in Resolution 93-133.

Subsequent to November 1993, the Board approved a number of other delegations individually.

On January 23, 1995, Chairman Jesse Huff signed a new compilation of delegations which included additional delegations that had been approved by the Board since 1993.

On January 27, 2005, the Board directed staff to prepare an item for updating and revising the list of delegations, and to establish a staff consent agenda process.

Key Issues

►Updating Current Compilation

As noted above, the most recent compilation of delegations was signed on January 23, 1995 and is provided as attachment 1. After stating the general purpose of the delegation, it then provides a more specific list of delegations in several categories concerning:

- The procurement of goods, services and consultant services
- The approval of permits and related documents for solid waste facilities

- The initiation and undertaking of certain enforcement and compliance actions
- The Recycling Tax Credit
- Plastic beverage connectors
- The procedural requirements of the Administrative Procedure Act
- Redelegation

Finally, the delegation reserves the Board's authority on any of the matters listed by providing that:

“...the Board affirms its overall responsibility for the legally mandated duties of the organization, and approves the delegations of authority in order to achieve efficiency of operations and better serve the People of California by enabling the Board to provide the leadership and guidance necessary in achieving the ambitious goals of the California Integrated Waste Management Act of 1989, as amended...”

Subsequent Delegations

Since the last time that all of the delegations were compiled in one list, a number of additional delegations have been individually approved by the Board.

The Administration and Finance Division has had three delegations approved:

- Acceptance of Used Oil Incentive Claim/Reports Submitted After the 45th day
- Award and execute contracts, amendment, change orders to expend funding received by the Board from grants (federal)
- Proposed Finding for Unreliable Contractor List

The Division of Planning and Local Assistance has had two delegations approved:

- Approval of AB 75 plans
- Review of AB 75 annual reports

The Permitting and Enforcement Division has four delegations which were separately approved in connection with regulations:

- Emergency Waivers – Condition, limit, suspend, or terminate
- LEA Asbestos Program authorization
- Duties of the Board acting as the enforcement agency
- Stipulated Temporary Agreement - Condition, limit, suspend, or terminate

The Waste Prevention and Markets Division has had one delegation approved in connection with regulations:

- Assessment of penalties for late and non-filing of Newsprint Consumer Certification

The Special Waste Division has had two delegations approved:

- Disbursal of funds for used oil recycling block grant entitlement program
- Appeals for used oil block grant application deadline disputes

Obsolete Delegations

Since the last time that all of the delegations were compiled in one list, one of the delegations has become obsolete:

- The Plastic Beverage Container Connector law has been revised, moved, and the requirements relating to exemptions which were dealt with in the delegation have been repealed

Proposed Resolution #2005-54 collects all of the Board's existing delegations into one document, adds some clarifying language for some of the delegations that were not explicitly included in the earlier resolutions but which were clearly included in previous explicit delegations, and removes the obsolete delegation.

► Adding New Delegations

As noted above, at its January workshop on Internal Process and Planning, the Board discussed whether or not to include additional tasks on this list of delegations and directed staff to come back with an item proposing new delegations for Board consideration. During that discussion, the Board indicated its willingness to **include a number of additional duties within its delegation to the Executive Director where the matters were all or mostly administrative in nature, or they were the type of tasks that would involve little or no discretion or subjective evaluation.** These duties are noted and briefly discussed below and have been included in proposed Resolution #2005-54 under the heading "New Delegations."

It is important to keep in mind that, as with the existing delegations, even if a particular task from these additional delegations is contained on the list of delegations, if there are circumstances regarding it which would make it controversial, contested, or otherwise significant, that task would not fit within the delegation and would still come before the Board.

- Confirmation of fulfillment of contracts

Individual Contract Managers are responsible for ensuring contract terms have been met for the purposes of concluding the contract and making the final payment. If a contract requires a report with policy recommendations, staff will use these recommendations, among other things, in preparing an agenda item to be presented to the Board for consideration.

- Conducting the required 45-day public hearing for regulations where the Board has not directed that it wants the hearing to occur at a committee or Board meeting

This is a requirement of the Administrative Procedures Act, but the Board is not required to participate in this public hearing if it does not elect to. Board discussion and consideration would still occur during other parts of the rulemaking process.

- Approval RMDZ zone designations

These approvals are administrative in nature given the objective criteria for being designated. The Board would still be provided with periodic updates.

- Approval of RMDZ Loan Committee Member additions

These approvals are administrative in nature. The Board would still be provided with periodic updates.

- Approval of RMDZ zone expansions

These approvals are administrative in nature given the objective criteria for expansions. The Board would still be provided with periodic updates.

- Approval of NDFE amendments

These approvals involve little or no discretionary or subjective evaluation as the NDFE is designed to be descriptive in nature.

- Approval of Regional Agency formation

These approvals involve little or no discretionary or subjective evaluation as statute provides the required provisions of the agreement.

- Acceptance of HHWE biennial review

These approvals involve little or no discretionary or subjective evaluation, just a verification that selected programs are being implemented.

- Approval of Extensions for Newly Incorporated Cities to meet diversion requirements

Statute allows newly incorporated cities up to 18 months from incorporation to submit a SRRE, HHWE, and NDFE. Statute also allows the Board to grant these jurisdictions an extension of three years to meet the 50% diversion requirement. Without such an extension, the jurisdiction must be at 50% upon Board approval of the SRRE. This leaves the jurisdiction little or no time to implement its programs once its plans have been developed. In the past, the Board has recognized the difficult situation that these statutory timelines place on newly incorporated cities and has routinely granted these extension requests when recommended by staff.

- Publishing of Inventory of solid waste facilities which violate state minimum standards

Including facilities on the inventory is not discretionary. The Inventory will be available “live” on Web site, so there is no need for Board to have a consideration item just to “publish” the list. The Board would still be provided with 6 month written updates.

- Approval of RPPC Stipulated Agreements

These are mainly administrative in nature. Negotiations would have already occurred between staff and companies to draft the stipulated agreements, which could involve up to \$100,000 per year. This would allow for the timely execution of these agreements and collection of fines. A summary of agreements reached and fines collected could be included in a quarterly enforcement report.

- Approval of List of Companies Subject to RPPC Audits

Historically, this has been non-controversial and administrative in nature. The audits are used to verify compliance claims and the results may be a basis for pursuing a Stipulated Agreement, Public Hearing or referral to the Attorney General. A summary of the audits could be included in an annual enforcement report.

- Approval of Trash bag compliant/non-compliant manufacturers lists

Inclusion on the list is mandatory for manufacturers that do not comply with statutory or regulatory requirements.

- Approval of Trash bag compliant/non-compliant wholesalers lists

Inclusion on the list is mandatory for wholesalers that do not comply with statutory or regulatory requirements.

- Approval of List of Companies Subject to Trash Bag Audits

Historically, this has been non-controversial and administrative in nature. With the Board adopting a report to the Legislature on Plastic Film and Trash Bags that recommends that the Legislature grant the Board the authority to suspend this law and ultimately repeal it, but in the interest of completeness it makes sense to include it at this time.

- Approval of List of Companies Subject to Newsprint audits

Historically, this has been non-controversial and administrative in nature.

- Approval of Litigation/Enforcement settlements \leq \$25,000 (with quarterly Enforcement Report)

Cases involving small dollar amounts are typically non-controversial, do not have broad policy implications, and do not rise to the level of needing a full discussion with the Board in closed session to resolve them.

► Staff Consent Agenda Process

As noted above, the Board also directed staff to prepare an item to establish a streamlined procedure for a staff consent agenda process for items that typically would require little or no discussion at Committee and Board meetings, but which the Board did not deem appropriate for delegation.

Eligible Types of Items

The categories of items that the Board directed staff to include in an item for its consideration for this process are noted and briefly discussed below and have been included in proposed Resolution #2005-55.

It is important to keep in mind that, as with the delegations discussed above, even if a particular task is contained on the list of which is eligible for the staff consent agenda item, if there are circumstances regarding it which would make it controversial, contested, or otherwise significant, that task would not fit within this process and would still come before the Board in a regular agenda item.

- Approval of Contract Scopes of Work

These approvals are primarily administrative in nature since the Board sets the parameters of the proposed contracts as part of its allocation, reallocation, or Five

Year Tire Plan agenda items. However, on occasion, it is sometimes necessary for the Board to provide clarification regarding the original parameters as they are set forth in the scope of work. Including these matters as part of a staff consent agenda item would allow the Board to verify that the scope of work is consistent with its direction without expending additional resources for the vast majority of scopes of work that need no additional revisions.

- Approval of Contract Awards

These approvals are primarily administrative in nature since the actual award is based upon objective criteria (lowest bid, etc.). Including these matters as part of a staff consent agenda item would allow the Board to remain informed about how its contract dollars are being encumbered without expending additional resources for contract awards that are following the prescribed process.

- Approval of Grant Awards

These approvals are primarily administrative in nature and non-discretionary, as grant awards are based on score determined by panel, utilizing scoring criteria approved by Board. Including these matters as part of a staff consent agenda item would allow the Board to remain informed about how its grant dollars are being awarded without expending additional resources for grant awards that are following the prescribed process.

- Approval of 2136 and Farm and Ranch Grant Awards

These approvals are primarily administrative in nature and non-discretionary, as grant awards are based on grant criteria approved by Board. Including these matters as part of a staff consent agenda item would allow the Board to remain informed about how its grant dollars are being awarded without expending additional resources for grant awards that are following the prescribed process.

- RMDZ Loan Approvals

These approvals are primarily administrative in nature as they are based on completion of loan documents, cross-divisional review of proposed project, and Loan Committee recommendation of financial aspects of the loan. Including these matters as part of a staff consent agenda item would allow the Board to remain informed about how its loan dollars are being spent without expending additional resources for loans that are following the prescribed process and meet the appropriate financial standards.

- Approval of NBY/Gen Studies (if no dispute, well above 50% diversion rate)

These approvals are primarily administrative in nature as they are based upon staff verification of calculations and documentation provided. Including these matters as part of a staff consent agenda item would allow the Board to remain informed about diversion rates and programs in various jurisdictions throughout the state, without expending additional resources for the majority of submitted New Base Years that meet the appropriate standards.

- Approval of 5 Year Reviews

These approvals are primarily administrative in nature as they are based upon staff verification review of the jurisdictions submitted report which has already gone through a local review and approval process. Including these matters as part of a staff consent agenda item would allow the Board to remain informed about diversion rates and programs in various jurisdictions throughout the state, without expending additional resources for the majority of submitted Five Year Reviews that have no outstanding issues.

- Acceptance of Biennial Review findings for good programs and above 50% diversion rate (if no dispute, and rates are not declining)

These agenda items are primarily administrative in nature as they are based upon staff verification of diversion rates and program implementation the jurisdictions. Including these matters as part of a staff consent agenda item would allow the Board to remain informed about diversion rates and programs in various jurisdictions throughout the state, without expending additional resources for the majority of Biennial Reviews that have no outstanding issues.

- Acceptance of Biennial Review findings for good programs and Good Faith Effort Finding (if no dispute and rates are not declining)

These agenda items are primarily administrative in nature as they are based upon staff verification of diversion rates and program implementation the jurisdictions. Including these matters as part of a staff consent agenda item would allow the Board to remain informed about diversion rates and programs in various jurisdictions throughout the state, without expending additional resources for the majority of Biennial Reviews that have no outstanding issues.

- Approval of Planning Elements (SRRE, HHWE, and NDFE) for Newly Incorporated Cities

Most planning elements submitted by newly incorporated cities rely heavily on Board-developed model elements and technical assistance provided by Board staff. These documents have been routinely approved by the Board and the agenda items primarily serve to provide information to the Board and the public about the new city's programs, a function that would still be served through inclusion in the consent agenda item.

Proposed Process

Staff is proposing that the process be set up as follows:

Program staff would still perform the underlying work involved in the items listed below (reviewing plans, loan applications, grant applications, etc.) and sending their analysis through the normal internal review process (including supervisory, legal, and contract review as appropriate). If the item is one that fits within one of the above categories, once it is ready for Board approval, a title for the item would still be placed into BAWDS in the same manner that any other title would be added

(however, with an additional notation that it is a streamlined staff consent agenda item). The item that would be prepared would use a streamlined staff consent agenda item format which would be reviewed and then entered into BAWDS in the same manner that regular agenda items would be entered. This abbreviated item would provide only the basic facts of the item, but would include the relevant attachments which would contain additional details. (An example of a streamlined format is in attachment 2). The streamlined item and attachments would be provided to the public through links on the Board's agenda notice as with any other agenda item.

The committee agenda notice would have a standing item for consideration of the streamlined staff consent agenda similar to the current Board agenda notice has an entry for the consent agenda. (See example in attachment 3). When this item came up, the Committee Chair would note which items were being considered for approval as part of the staff consent agenda. This item would be handled as a consent item at the committee meeting (no presentation or discussion prior to vote). If a committee member wished to discuss any of the matters contained in any of the items on the streamlined consent agenda, or wanted additional information, that item could be "pulled off" of this consent agenda and discussed. In some cases, depending upon the nature and complexity of the issues involved, an item pulled off of this consent item might need to be postponed to the full Board Meeting or to the next month's regular agenda process. The items that are approved as part of the committee consent agenda would then go forward for a vote by the full Board along with the items that are recommended by the Committee for the "regular" consent agenda.

(The Board could have two separate consent agendas for the Board meeting – one for streamlined consent items and one for those items recommended for Board consent after Committee discussion. At this point, staff is recommending that all of these items be included in one consent agenda vote at the Board meeting for simplicity. The Board and the public will know which items have made it onto the consent agenda through the streamlined process without having to vote on them separately because that fact will be part be noted as part of the item title).

This process should ensure that relevant information is provided to the Board and the public, but eliminate the necessity for additional staff and Board time to handle the vast majority of these types of items which could be approved with little or no discussion. In addition, this process minimizes the need for any new procedures and formats by generally following the existing process as far as preparation, review and entry into the system, but using an abbreviated format and no presentation to limit the staff and Board time that normally is spent on preparing, presenting and discussing these items.

B. Environmental Issues

Not applicable as this item relates to internal procedures.

C. Program/Long Term Impacts

Staff and the Board will be able to more efficiently devote their time and resources to items that require discussion at Committee and Board meetings.

D. Stakeholder Impacts

Stakeholder issues can be handled more efficiently when the need to attend Board meetings is limited or eliminated for those items that do not require discussion at Committee and Board meetings.

E. Fiscal Impacts

While no specific savings have been quantified, staff and the Board will be able to more efficiently devote their time and resources to items that require discussion at Committee and Board meetings.

F. Legal Issues

None in addition to those discussed above.

G. Environmental Justice

Not applicable as this item relates to internal procedures.

H. 2001 Strategic Plan

This item supports strategic plan Goal 5 by ensuring that staff and Board resources can be more efficiently devoted to items that require discussion at Committee and Board meetings.

Goal 5—Improve the efficiency and effectiveness of the California Integrated Waste Management Board in pursuit of its mission.

This goal is focused on the Board's improvement of its internal processes, and on providing staff with all of the tools needed to achieve the Board's mission and goals.

VI. FUNDING INFORMATION

N/A

VII. ATTACHMENTS

1. January 1995 Delegation
2. Draft Staff Consent Agenda Item Format
3. Draft Staff Consent Agenda Notice Format for Committees
4. Resolution Number 2005-54
5. Resolution Number 2005-55

VIII. STAFF RESPONSIBLE FOR ITEM PREPARATION

A. Program Staff: Elliot Block

Phone: (916) 341-6080

B. Legal Staff: Marie Carter

Phone: (916) 341-6062

C. Administration Staff: N/A

Phone:

IX. WRITTEN SUPPORT AND/OR OPPOSITION

A. Support

None at the time this item was prepared.

B. Opposition

None at the time this item was prepared.

Board Meeting
March 15-16, 2005
Revision January 11, 1995 10:43

Agenda Item 33
Attachment 1

California Integrated Waste Management Board

Delegation of Authority

Whereas, the California Integrated Waste Management Board was created with the enactment of the California Integrated Waste Management Act of 1989; and,

Whereas, the major responsibility of the Board is to develop and implement new Integrated Waste Management policy for the State of California; and,

Whereas, in order to carry out the responsibilities, commitment and administration of the Board, numerous minor and routine agreements and documents must be executed for and on behalf of the Board; and,

Whereas, the time for presentation to, and action by, the Board for each and every such matter is extensive for both the Board and staff, and often delaysthe Board's receipt of essential goods and services; and,

Whereas, the Board desires to focus its energies and efforts on the responsibilities with which it alone has been charged by the Governor and the Legislature, namely the deliberation, adoption and implementation of statewide policy and standar4s f or Integrated Waste Management; and

Whereas, Public Resources Code (PRC) § 40430 requires the Board to appoint an Executive Director to administer the functions of the Board and to prescribe the his or her duties; and,

Whereas, PRC § 40430 allows the Board to delegate any power, duty, purpose, function and jurisdiction which it deems appropriate to the Executive Director;

Now, therefore, Be it Resolved, that the Board authorizes the Executive Director, on behalf of the Board, to render certain decisions and execute certain documents which are administrative in nature and which involve matters which are not contested, controversial or have significant impact on integrated waste management policy, or are necessary for the preservation of the public health and safety or the environment, as follows:

Be it Further Resolved, concerning the procurement of goods, services and consultant services, the Executive Director may:

1. For expenditures from the budget line for Consultant and Professional Services from the Operating Expense and Equipment category in the Governor's Budget, award and execute all contracts and written change orders or amendments thereto, of

Page 2

\$50,000.00 or less, where the concepts thereof or have been approved by the Board; except that, where such contracts and written change orders or amendments thereto are for the administration of the functions of the Board as identified by the Executive Director or are related to direct legislative mandates as identified by the Board, prior concept approval by the Board shall not be required;

2. For expenditures from the budget line item for Consultant and Professional Services from the Operating Expense and Equipment category in the Governor's Budget, award and execute all interagency agreements and written changes orders or amendments thereto, the concepts therefor have been approved by the Board; except that, where such interagency agreements and written change orders or amendments thereto are for the administration of the functions of the Board, as identified by the Executive Director, or are related to direct legislative mandates as identified by the Board, prior concept approval by the Board shall not be required.
3. For all other expenditures from the Operating Expense and Equipment category in the Governor's Budget, award and execute all contracts, and interagency agreements and leases, and written change orders or amendments thereto;
4. Prepare, conduct and evaluate all solicitations, bids, requests for proposals for procurement of goods and services, the concepts therefor have been approved by the Board consistent with the approvals required in paragraphs 1 and 2, above;
5. Execute contracts and amendments thereto, related to the Board's grant, loan, and loan guarantee programs, following procedures and guidelines which have been approved by the Board.

Be it Further Resolved, concerning the approval of permits and related documents for solid waste facilities, the Executive Director may:

1. Approve non-significant modifications to solid waste facilities permits. A modification is used to make administrative and editing changes in order

Delegation of Authority

Delegation of Authority
Page 3

to clarify and update a permit. A modification is used where a revision to a solid waste facilities permit is not necessary. A revision is made to a permit where a substantial and significant change to the operation or design of a solid waste facility is proposed. The Board retains the authority to determine that a change in a permit is significant, and is, therefor, a revision, hence, subject to the review and approval of the Permitting and Enforcement Committee and the Board.

2. Approve closure and postclosure maintenance plans, including financial assurance mechanisms, pursuant to law and regulations adopted by the Board.
3. Approve requests related to release of funds from approved financial, assurance mechanisms for the purpose of undertaking closure or postclosure maintenance activities at a solid waste landfill.
4. Approve implementation of alternatives specified and allowed under the Subtitle D Regulations with the exception of extension of closure dates for facilities that cannot make the required demonstrations regarding location restrictions.

Be it Further Resolved, that in order to act expeditiously where the public health, safety and the environment are concerned, the Executive Director may initiate and undertake certain enforcement and compliance actions. The Executive Director will report to the Board at its next meeting on actions taken pursuant to this paragraph. The Executive Director may:

1. Authorize, sign and issue Administrative Notices and Orders, corrective action orders, and other enforcement and compliance administrative actions, such as the deployment of Board staff to conduct investigations and monitoring.
2. Commence and conduct enforcement through litigation, or respond to litigation where the Board is sued, by consultation and/or referral to the Attorney General;

Be it Further Resolved, concerning the Recycling Tax Credit program, that the Executive Director may approve and execute the required Certifications that the property upon which the application for the tax credit is based qualifies under Revenue and Taxation Code Sections 17052.14 and 23612.5.

Delegation of Authority

Delegation of Authority

Page 4

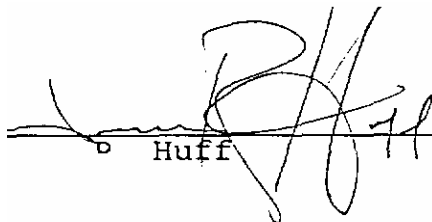
Be it Further Resolved, that the Executive Director may classify plastic beverage connectors as degradable, or find the connector exempt, based on demonstration of the connector's conformance with Health and Safety Code Section 24384.5, and other requirements set forth in law.

Be it Further Resolved, that the Executive Director may conduct the development of regulatory language, the drafting and release of Notices and other activities undertaken in compliance with the procedural requirements of the California Administrative Procedure Act for submission of -rulemaking files to the Office of Administrative Law, in accordance with procedures adopted by the Board.

Be it Further Resolved, that the Board authorizes the Executive Director to redelegate to subordinates the powers and duties specified above, as deemed necessary and appropriate. .

Be it Further Resolved, that the Board affirms its overall responsibility for the legally mandated duties of the organization, and approves the delegations of authority in order to achieve efficiency of operations and better serve the People of California by enabling the Board to provide the leadership and guidance necessary in achieving the ambitious goals of the California Integrated Waste Management Act of 1989, as amended.

Be it Further Resolved, that this delegation of authority, approved by the Board, upon signature by the Chairman of the Board, is effective (date),)an~ supersedes Resolution 93-133.


Huff
DATE

CERTIFICATION ,~z~esse

Chairman

The Chairman of the California Integrated Waste Management Board does hereby certify that the foregoing is a full, true and correct copy of a resolution duly and regularly adopted at a meeting of the California Integrated Waste Management Board held on November 17,

Draft Committee Notice
California Environmental Protection Agency
CALIFORNIA INTEGRATED WASTE MANAGEMENT BOARD

Michael Paparian, Committee Chair
Rosario Marin, Member
Rosalie Mulé, Member

Sustainability and Market Development Committee

Thursday, February 10, 2005 1:00 pm

Joe Serna Jr., CalEPA Building
Coastal Hearing Room
1001 I Street, 2nd Floor
Sacramento, CA 95814

AGENDA

Transcript not yet available

Agenda Items and Attachments are posted on the February 15-16, 2005 Board Meeting Agenda at [View the Agenda](#).

☐ Roll And Declaration Of Quorum

A. Waste Prevention And Market Development Deputy Director's Report

B. Streamlined Staff Committee Agenda Items

C. Consideration Of Applications To Renew The Following Recycling Market Development Zone Designations: (1) Fresno County; (2) Madera County; and (3) Placer County -- (February Board Item 12)

D. Consideration Of The Scoring Criteria And Evaluation Process For The Sustainable Building Tire Grant Program Fiscal Year 2004/2005 (California Tire Recycling Management Fund -- (February Board Item 13)

E. Consideration Of A Report To The Legislature: Plastic Trash Bag Program And A Comprehensive Approach To Film Plastic Diversion (Public Resources Code Section 42293 (b)) -- (February Board Item 14)

F. Diversion, Planning And Local Assistance Deputy Director's Report

G. Consideration Of A Request To Change The Base Year To 2002 For The Previously Approved Source Reduction And Recycling Element For The City Of Lincoln (Streamlined Staff Committee Agenda Item)
(February Board Item 14)

H. Presentation On Waste Characterization Data And Its Potential For Identifying Opportunities For Additional Diversion -- (February Board Item 15)

I. Consideration of the Amended Nondisposal Facility Element for the Unincorporated Area of Los Angeles County -- (February Board Item 16)

J. Consideration Of A Second SB1066 Time Extension Application By The Following Jurisdictions: El Dorado County Unincorporated And The City Of South Lake Tahoe, El Dorado County -- (February Board Item 17)

Draft streamlined item - example
California Integrated Waste Management Board
Board Meeting
February 15-16, 2005

Streamlined Consent Agenda Item –Sustainability and Markets Committee

Staff is recommending Board approval of the identified resolutions for the items listed below. These items are eligible for the streamlined staff consent agenda because they fit within the categories of items that the Board has indicated could be approved in this manner and are not otherwise contested, controversial, or involve significant policy decisions (See Board Resolution No. 2005-55).

1. Consideration Of A Request To Change The Base Year To 2002 For The Previously Approved Source Reduction And Recycling Element For The City Of Lincoln

City requested diversion rate for new base year:

Staff recommended diversion rate for new base year:

Additional diversion from (biomass/transformation/sludge):

Existing Jurisdiction Conditions:

Diversion Rate Data (Percent)						Key Jurisdiction Conditions		
						Waste Stream Data		
<i>Base Year</i>	<i>1999</i>	<i>2000</i>	<i>2001</i>	<i>2002*</i>	<i>Pounds waste generated per person per day (ppd)**</i>	<i>Population</i>	<i>Non-Residential Waste Stream Percentage</i>	<i>Residential Waste Stream Percentage</i>
2002	ND*	ND	ND	73%	16.84	17,750	79%	21%

* These values are based on the City's proposed (2002) base year correction, discussed in the "Base Year Change" section below. ND means "not determined." ** (Note: The pounds of waste generated by per person per day are higher than the statewide average due to the high percentage of construction and demolition diversion. Additionally, the non-residential generation percentage is significantly higher than the residential generation percentage.)

Base Year Analysis

The City of Lincoln	Disposal	Diversion	Generation
Old Base Year Tons (1990)	8,087	782	8,869
Jurisdiction New Base-Year Tons (2002)	14,458	43,488	57,946
Board Staff Recommended New (2002) Base-Year Tons	14,858	39,689	54,547

2002 Diversion Rate using 1990 Base Year	Jurisdiction Claimed Diversion Rate for 2002	Board Staff Recommended Diversion Rate for 2002
25%	75%	73%

Attachments

- Program Listing for the City of Lincoln
- Base Year Modification Request Certification for the City of Lincoln
- Board staff Recommended Base-Year Modification Request Certification
- Table A: Site Visit Verification Findings for the City of Lincoln
- Resolution Number 2005-42

CALIFORNIA INTEGRATED WASTE MANAGEMENT BOARD

Resolution 2005-54

Consideration Of Updated List Of Delegations And Additional Delegations

WHEREAS, the California Integrated Waste Management Board was created with the enactment of the California Integrated Waste Management Act of 1989; and,

WHEREAS, the major responsibility of the Board is to develop and implement new Integrated Waste Management policy for the State of California; and,

WHEREAS, in order to carry out the responsibilities, commitment and administration of the Board, numerous minor and routine agreements and documents must be executed for and on behalf of the Board; and,

WHEREAS, the time for presentation to, and action by, the Board for each and every such matter is extensive for both the Board and staff, and often delays the Board's receipt of essential goods and services; and,

WHEREAS, the Board desires to focus its energies and efforts on the responsibilities with which it alone has been charged by the Governor and the Legislature, namely the deliberation, adoption and implementation of statewide policy and standards for Integrated Waste Management; and

WHEREAS, Public Resources Code (PRC) § 40430 requires the Board to appoint an Executive Director to administer the functions of the Board and to prescribe the his or her duties; and,

WHEREAS, PRC § 40430 allows the Board to delegate any power, duty, purpose, function and jurisdiction which it deems appropriate to the Executive Director; and,

WHEREAS, since the last time that the Board prepared a compilation of delegations in 1995, certain of those delegations have become obsolete, and the Board has also added a number of delegations in individual agenda items, such that it would be appropriate to update the compilation of delegations; and,

WHEREAS, the Board has also determined that it would be appropriate to include additional delegations to this compilation; and,

NOW, THEREFORE, BE IT RESOLVED, that the Board authorizes the Executive Director, on behalf of the Board, to render certain decisions and execute certain documents which are administrative in nature and which involve matters which are not contested, controversial or have significant impact on integrated waste management policy, or are necessary for the preservation of the public health and safety or the environment, as follows:

Pre-1995 Delegations

BE IT FURTHER RESOLVED, concerning the procurement of goods, services and consultant services, the Executive Director may:

1. For expenditures from the budget line for Consultant and Professional Services from the Operating Expense and Equipment category in the Governor's Budget, award and execute all contracts and written change orders or amendments thereto, of \$50,000.00 or less, where the concepts therefore have been approved by the Board; except that, where such contracts and written change orders or amendments thereto are for the administration of the functions of the Board as identified by the Executive Director or are related to direct legislative mandates as identified by the Board, prior concept approval by the Board shall not be required;
2. For expenditures from the budget line item for Consultant and Professional Services from the Operating Expense and Equipment category in the Governor's Budget, award and execute all interagency agreements and written changes orders or amendments thereto, the concepts therefore have been approved by the Board; except that, where such interagency agreements and written change orders or amendments thereto are for the administration of the functions of the Board, as identified by the Executive Director, or are related to direct legislative mandates as identified by the Board, prior concept approval by the Board shall not be required.
3. For all other expenditures from the Operating Expense and Equipment category in the Governor's Budget, award and execute all contracts, end interagency agreements and leases, and written change orders or amendments thereto;
4. Prepare, conduct and evaluate all solicitations, bids, requests for proposals for procurement of goods and services, the concepts thereof have been approved by the Board consistent with the approvals required in paragraphs 1 and 2, above;
5. Execute contracts and amendments thereto, related to the Board's grant, loan, and loan guarantee programs, following procedures and guidelines which have been approved by the Board.

BE IT FURTHER RESOLVED, concerning the approval of permits and related documents for solid waste facilities, the Executive Director may:

1. Approve non-significant modifications to solid waste facilities permits. A modification is used to make administrative and editing changes in order to clarify and update a permit. A modification is used where a revision to a solid waste facilities permit is not necessary. A revision is made to a permit where a substantial and significant change to the operation or design of a solid waste facility is proposed. The Board retains the authority to determine that a change in a permit is significant, and is, therefore, a revision, hence, subject to the review and approval of the Permitting and Enforcement Committee and the Board.
2. Approve closure and postclosure maintenance plans, including Post-Closure Land Use Proposals (except final cover impacts) and financial assurance mechanisms (including operating liability mechanisms), pursuant to law and regulations adopted by the Board.
3. Approve requests related to release of funds from approved financial, assurance mechanisms for the purpose of undertaking closure or postclosure maintenance activities at a solid waste landfill.
4. Approve implementation of alternatives specified and allowed under the Subtitle D Regulations (including landfill daily cover waivers) with the exception of extension of closure dates for facilities that cannot make the required demonstrations regarding location restrictions.
5. Approve alternative daily cover demonstration projects and final reports.

BE IT FURTHER RESOLVED, that in order to act expeditiously where the public health, safety and the environment are concerned, the Executive Director may initiate and undertake certain enforcement and compliance actions. The Executive Director will report to the Board at its next meeting on actions taken pursuant to this paragraph. The Executive Director may:

1. Authorize, sign and issue Administrative Notices and Orders, corrective action orders, and other enforcement and compliance administrative actions, such as the deployment of Board staff to conduct investigations and monitoring.
2. Commence and conduct enforcement through litigation, or respond to litigation where the Board is sued, by consultation and/or referral to the Attorney General;

BE IT FURTHER RESOLVED, concerning the Recycling Tax Credit program, that the Executive Director may approve and execute the required Certifications that the property upon which the application for the tax credit is based qualifies under Revenue and Taxation Code Sections 17052.14 and 23612.5.

BE IT FURTHER RESOLVED, that the Executive Director may conduct the development of regulatory language, the drafting and release of Notices and other activities undertaken in compliance with the procedural requirements of the California Administrative Procedure Act for submission of rulemaking files to the Office of Administrative Law, in accordance with procedures adopted by the Board.

Delegations Approved between 1995 and 2005

BE IT FURTHER RESOLVED, that concerning the acceptance of Used Oil Incentive Claim/Reports, the Executive Director may accept Used Oil Incentive Claim/Reports submitted after the 45th day, and to reduce, eliminate, or approve the amount of incentive fee paid due to late submission of the claim.

BE IT FURTHER RESOLVED, that the Board hereby delegates authority to the Executive Director for expenditures for Consulting and Professional Services which are the result of previously approved external reimbursable funding sources. Thus, the Executive Director may:

For all expenditures from Consulting and Professional Services budget line item from the Operating and Expense and Equipment category in the Governor's Budget, award and execute all contracts, interagency agreements and amendments thereto which are the result of previously approved external funding sources. Prior concept approval by the Board shall not be required for these external reimbursable expenditures.

BE IT FURTHER RESOLVED, that the Executive Director be delegated the authority to approve those State Agency and Large State Facility Integrated Waste Management Plans (IWMP) not specifically requested to be considered at a regularly scheduled Board meeting. The Board is to receive reasonable notice which plans the Executive Director will approve and will notify the Executive Director which IWMPs it would like to consider at a regularly scheduled Board meeting.

BE IT FURTHER RESOLVED, that the Executive Director is delegated the authority authorize LEA Asbestos Containing Waste Programs which meet the requirements of 14 CCR 17897.25.

BE IT FURTHER RESOLVED, that the Board delegates to the Executive Director, the duties of the Board acting as the enforcement agency, as delineated in PRC, Division 30, Parts 4 and 5, and the power to make any approval associated with those duties with the exception of 1) final approval of agreements with local governing bodies required by PRC sections 43212.1 and 43310.1, and 2) administration of the hearing panel required by PRC section 43309.

BE IT FURTHER RESOLVED, that the Board has separately delegated authority to the Executive Director in several other areas through its adoption of regulations for Emergency Waivers of Standards, Stipulated Agreement Orders, The List of Unreliable Contractors, and Late and Non-filing of Newsprint Consumer Certifications. Those delegations are noted below in order to make this list of delegations complete.

BE IT FURTHER RESOLVED, that concerning Emergency Waivers of Standards granted pursuant to 14 CCR 17210 et seq., the Executive Director is delegated the authority to review all EA waiver approvals and:

1. The Executive Director may condition, limit, suspend, or terminate an operator's use of a waiver, if it is determined that use of the waiver would cause harm to public health and safety, or the environment.
2. The Executive Director may condition, limit suspend, or terminate an operator's use of a waiver if it is found that the operator has not utilized reasonably available waste diversion programs as identified in its waiver documentation.
3. The Executive Director shall report to the Board at a regularly scheduled meeting or in writing prior to the next regularly scheduled meeting, any granting of a waiver, and all determinations made concerning the waiver.

BE IT FURTHER RESOLVED, that concerning an Enforcement Agency's issuance of a Stipulated Agreement Order in accordance with PRC 14 CCR 17211 et seq. the Executive Director of the Board shall review all EA approvals. The Executive Director may condition, limit, suspend, or terminate an operator's use of a stipulated agreement, if it is determined that the use of the agreement would cause harm to public health and safety, or the environment.

BE IT FURTHER RESOLVED, that concerning the Board's List of Unreliable Contractors maintained in accordance with 14 CCR 17050 et seq., the Executive Director is delegated the authority to make a proposed finding of unreliability which will become final if not appealed in accordance with the procedures set forth in those regulations.

BE IT FURTHER RESOLVED, that concerning the Newsprint Consumer Certification (Form 430) required pursuant to 14 CCR 17950 et seq., the Executive Director is authorized to assess civil penalties in accordance with the provisions of those regulations.

BE IT FURTHER RESOLVED, that the Board approves the Delegation of Authority to the Executive Director to disburse funding for the Used Oil Recycling Block Grant Entitlement Program.

BE IT FURTHER RESOLVED, regarding Used Oil Block Grant applications that:

1. The Board hereafter will not entertain appeals from jurisdictions who fail to submit a Used Oil Block Grant application in a timely manner; and
2. The Executive Director shall strictly enforce the application deadline policy as set forth in the Board's December 2002 Resolution number 2002-773; and
3. The Board directs staff to bring future grant application-related deadline disputes to the Executive Director for resolution at his/her discretion; and
4. The Board will allow future Used Oil Block Grant applicants, who file a timely but incomplete application, a "grace" period designated by staff to correct any deficiencies or omissions in their applications.

BE IT FURTHER RESOLVED, that the Executive Director be delegated the authority to approve those State Agency and Large State Facility Integrated Waste Management Annual Reports (AB 75) not specifically requested to be considered at a regularly scheduled Board meeting. The Board is to receive reasonable notice which annual reports the Executive Director will approve and will notify the Executive Director which annual reports it would like to consider at a regularly scheduled Board meeting.

New Delegations

BE IT FURTHER RESOLVED, that the Board delegates to the Executive Director the following tasks:

Confirmation of fulfillment of contracts for the purposes of concluding the contract and making final payment; where the contract requires a report with policy recommendations, staff will use these recommendations, among other things, in preparing an agenda item to be presented to the Board for consideration;

Conducting the required 45-day public hearing for regulations where the Board has not directed that it wants the hearing to occur at a Committee or Board meeting;

Recycling Market Development Zone (RMDZ) designations; staff will instead provide the Board with periodic updates;

RMDZ Loan Committee Member additions; staff will instead provide the Board with periodic updates;

RMDZ zone expansions; staff will instead provide the Board with periodic updates;

Approval of NDFE amendments;

Approval of Regional agency formation;

Acceptance of HHWE biennial review finding;

Approval of Extensions for Newly Incorporated Cities to meet diversion requirements;

Publishing the Inventory of Solid Waste Facilities which violate State Minimum Standards on the Board's website; staff will instead provide the Board with 6 month written updates;

Approval of Rigid Plastic Packaging Container stipulated agreements;

Approval of List of Companies Subject to RPPC Audits;

Approval of Trash bag compliant/non-compliant manufacturers lists;

Approval of Trash bag compliant/non-compliant wholesalers lists;

Approval of List of Companies Subject to Trash Bag Audits;

Approval of List of Companies Subject to Newsprint audits; and,

Approval of Litigation/Enforcement settlements less than or equal \$25,000, while providing the Board with a quarterly Enforcement Report.

BE IT FURTHER RESOLVED, that the Board authorizes the Executive Director to redelegate to subordinates the powers and duties specified above, as deemed necessary and appropriate.

BE IT FURTHER RESOLVED, that the Board affirms its overall responsibility for the legally mandated duties of the organization, and approves the delegations of authority in order to achieve efficiency of operations and better serve the People of California by enabling the Board to provide the leadership and guidance necessary in achieving the ambitious goals of the California Integrated Waste Management Act of 1989, as amended.

BE IT FURTHER RESOLVED, that this compilation of various individual delegations of authority, approved by the Board, supersedes the last compilation of delegations in Resolution 93—133 as revised on January 23, 1995.

CERTIFICATION

The undersigned Executive Director, or his designee, of the California Integrated Waste Management Board does hereby certify that the foregoing is a full, true, and correct copy of a resolution duly and regularly adopted at a meeting of the California Integrated Waste Management Board held on March 15-16, 2005

Dated:

Mark Leary
Executive Director

CALIFORNIA INTEGRATED WASTE MANAGEMENT BOARD

Resolution 2005-55

Consideration Of Updated List Of Delegations And Additional Delegations

WHEREAS, the California Integrated Waste Management Board was created with the enactment of the California Integrated Waste Management Act of 1989; and,

WHEREAS, the major responsibility of the Board is to develop and implement new Integrated Waste Management policy for the State of California; and,

WHEREAS, in order to carry out the responsibilities, commitment and administration of the Board, numerous minor and routine agreements and documents must be executed for and on behalf of the Board; and,

WHEREAS, the time for presentation to, and action by, the Board for each and every such matter is extensive for both the Board and staff, and often delays the Board's receipt of essential goods and services; and,

WHEREAS, the Board desires to focus its energies and efforts on the responsibilities with which it alone has been charged by the Governor and the Legislature, namely the deliberation, adoption and implementation of statewide policy and standards for Integrated Waste Management; and

WHEREAS, the Board desires to establish a streamlined procedure for a staff consent agenda for items that typically would require little or no discussion at Committee and Board meetings, but which the Board did not deem appropriate for fully delegating to its Executive Director;

NOW, THEREFORE BE IT RESOLVED THAT, the following categories of items shall be eligible for inclusion on a staff consent agenda at Committee and Board meetings, except if there are circumstances regarding it which would make it controversial, contested, or otherwise significant, that task would not fit within this process and would still come before the appropriate Committee and Board in a regular agenda item:

- Approval of Contract Scopes of Work
- Approval of Contract Awards
- Approval of Grant Awards
- Approval of 2136 and Farm and Ranch Grant Awards
- RMDZ Loan Approvals
- Approval of NBY/Gen Studies (if no dispute, well above 50% diversion rate)

(over)

- Approval of 5 Year Reviews
- Acceptance of Biennial Review findings for good programs and above 50% diversion rate (if no dispute, and rates are not declining)
- Acceptance of Biennial Review findings for good programs and Good Faith Effort Finding (if no dispute and rates are not declining)
- Approval of Planning Elements (SRRE, HHWE, and NDFE) for Newly Incorporated Cities

NOW, BE IT FURTHER RESOLVED THAT, the Board hereby adopts the process for a staff consent agenda as described in agenda item #33 on its March 15-16, 2005 meeting agenda.

CERTIFICATION

The undersigned Executive Director, or his designee, of the California Integrated Waste Management Board does hereby certify that the foregoing is a full, true, and correct copy of a resolution duly and regularly adopted at a meeting of the California Integrated Waste Management Board held on March 15-16, 2005

Dated:

Mark Leary
Executive Director